

INTERNET
FORM NLRB-501
(2-08)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

FORM EXEMPT UNDER 44 U.S.C. 3512

DO NOT WRITE IN THIS SPACE

Case 02-CA-150420

Date Filed 4/17/15

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Taino Foods, Inc. d/b/a McDonald's located at 51-67 E 161st St, Bronx, NY 10451 & McDonald's USA LLC, One McDonald's Plaza, Oak Brook, IL 60523 as Joint Employer		b. Tel. No. (718) 590-1990
d. Address (Street, city, state, and ZIP code) McDonald's, 51-67 E 161st St, Bronx, NY 10451 & McDonald's USA LLC, One McDonald's Plaza, Oak Brook, IL 60523		c. Cell No.
e. Employer Representative (b) (6), (b) (7)(C) Taino Foods Inc., 65 161st Street, Bronx, NY 10451, (631) 427-0178 & Gloria Santana, Executive VP, General Counsel, and Secretary, McDonald's Corporation		f. Fax No.
i. Type of Establishment (factory, mine, wholesaler, etc.) Restaurant		g. e-Mail
j. Identify principal product or service Food Service		h. Number of workers employed Approx. 50 - 60

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

On a date within the last six months, the above-named Joint Employer has unlawfully interfered with, restrained, and coerced employees in the exercise of their rights under the Act by engaging in the following conduct: 1) In or about (b) (6), (b) (7)(C) 2014, unlawfully reducing the work hours of employee (b) (6), (b) (7)(C) 2) Unlawfully disciplining employee (b) (6), (b) (7)(C) in or about (b) (6), (b) (7)(C) 2015 and on or about (b) (6), (b) (7)(C) 2015; and 3) On or about (b) (6), (b) (7)(C) 2015, unlawfully terminating the employment of (b) (6), (b) (7)(C) all in retaliation for (b) (6), (b) (7)(C) participation in protected and concerted activity.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

Fast Food Workers Committee

4a. Address (Street and number, city, state, and ZIP code)

(b) (6), (b) (7)(C)

4b. Tel. No. (b) (6), (b) (7)(C)

4c. Cell No.

4d. Fax No.

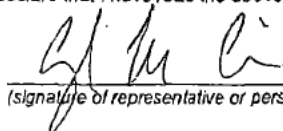
4e. e-Mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)*

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By



(signature of representative or person making charge)

Angelica M. Cesario - Attorney

(Print/type name and title or office, if any)

Tel. No.

212-627-8100

Office, if any, Cell No.

Fax No.

212-627-8182

e-Mail

acesario@levyratner.com

Address Levy Ratner, P.C., 80 Eighth Avenue Floor 8, New York, NY 10011-5126

4/17/15

(date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

Agent: [AGENT NAME AND TITLE]

[illegible]

REGION 2 – DOCKET SHEET (CHARGE AGAINST EMPLOYER)

Case name: Tamco Foods d/b/a MacDmalds located at 51-67
E 161st St. Bronx NY et. al.

Method of Receipt:	Visit	Written (fax or mail)	<input checked="" type="checkbox"/>
IO Assisted	Yes	No	<input checked="" type="checkbox"/>
IO Inquiry # on charge			

Assigned to:	Supervisor	<u>Dunham</u>	Agent	
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Dispute Location:	City	<u>Bronx</u>	State	<u>NY</u>
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ALLEGATIONS: (See Back)

BARGAINING STATUS (Check One)

Existing Contract	None	<input checked="" type="checkbox"/>
Expired Contract	Organizing Campaign	<input checked="" type="checkbox"/>
Initial Contract	Succeeding Contract	

No. of 8(a)(3) discriminatees	<u>1</u>
-------------------------------	----------

Date Filed (Action Disposition Date)	<u>4-17-15</u>
IA Category	
10(j) (check if applicable)	<input checked="" type="checkbox"/>

RELATED CASES (Related on case level and Investigation Action unless otherwise noted)	
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BLOCKS R CASE NUMBER: (Relate on case level and Investigation Action unless otherwise noted)	
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COMMENT:

SECTION	ALLEGATION	APPLICABLE?
8(a)(1)	Coercive Actions (Surveillance, etc.)	
	Coercive Rules	
	Coercive Statements (Threats, Promises of Benefits, etc.)	
	Coercive Activities (Retaliation, Discharge, Discipline)	
	Denials of Access	
	Discharge of supervisor (Parker-Robb Chevrolet)	
	Interrogation (including Polling)	
	Lawsuits	
	Weingarten	
8(a)(2)	Assistance	
	Domination	
	Unlawful Recognition	
8(a)(3)	Change in Terms and Conditions of Employment	✓
	Discharge (Including Layoff and Refusal to Hire (not salting))	✓
	Discipline	✓
	Lockouts	
	Refusal to Consider/Hire Applicant (salting only)	
	Refusal to Hire Majority	
	Refusal to Reinstatement Employee/Striker (e.g. Laidlaw)	
	Retaliatory Lawsuits	
	Shutdown or Relocate/Shutdown Unit Work	
	Union Security Related Actions	
8(a)(4)	Changes and Terms of Conditions in Employment	
	Discharge (Including Layoff and Refusal to Hire)	
	Discipline	
	Refusal to Reinstatement Employee/Striker	
	Shutdown or Relocate/Subcontract Unit Work	
8a(5)	Alter Ego	
	Failure to Sign Agreement	
	Refusal to Bargain/Bad Faith Bargain (including surface bargaining/direct dealing)	
	Refusal to Furnish Information	
	Refusal to Recognize	
	Repudiation/Modification of Contract (Sec. 8(d)/Unilateral Changes)	
	Shutdown or Relocation (e.g. First National Maint.) Subcontract Work	
8(e)	All Allegations against an Employer	

2/23/2015

LEVY RATNER, P.C.
80 Eighth Avenue
Floor 8
New York, NY 10011-7175

(212) 627-8100 phone
(212) 627-8182 fax

FACSIMILE

TO: Hon. Karen P. Fernbach, Esq.
Regional Director
National Labor Relations Board Region 2

FAX NO. (212) 264-2450

PHONE NO.: (212) 264-0300

FROM: Angelica M. Cesario

SUBJECT: Fast Food Workers Committee and McDonald's
(McDonald's - 51-67 E 161st St - Bronx)

Our Matter ID 521-001-00036

DATE: April 17, 2015

MESSAGE:

2 NUMBER OF PAGES TO FOLLOW

(If transmission is incomplete, please call Lourdes B. Garcia at (212) 627-8100 x 232.)

This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable laws. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, and return the original to us by U.S. mail at the address noted above. Thank you.

Richard A. Levy
Daniel J. Ratner
Daniel Engelstein*
Gwynne A. Wilcox*
Pamela Jeffrey
Kevin Finnegan
Carl J. Levine*
David Slutsky*
Allyson L. Belovin
Suzanne Hepner*
Richard Dorn
Robert H. Stroup
Dana E. Lossia*
Susan J. Cameron*
Micah Wissinger*
Ryan J. Barbur
Alexander Rabb

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www.levyratner.com

Vanessa Flores*
Laureve D. Blackstone*
Jorge A. Cisneros
Kimberly A. Lehmann*
Angelica M. Cesario*



April 17, 2015

BY FACSIMILE AND
FIRST-CLASS MAIL

Hon. Karen P. Fernbach, Esq.
Regional Director
National Labor Relations Board Region 2
26 Federal Plaza, Room 3614
New York, NY 10278-0104

**Re: Fast Food Workers Committee and McDonald's
(McDonald's - 51-67 E 161st St - Bronx)**


Dear Regional Director Fernbach:

I have enclosed an original unfair labor practice charge to be filed on behalf of Fast Food Workers Committee against Taino Foods, Inc. d/b/a McDonald's located at 51-67 E 161st Street, Bronx, NY 10451 and McDonald's USA, LLC as a joint employer, alleging violations of Sections 8(a)(1) and (3) of the Act. This is the Union's initial charge relating to the above-referenced location (51-67 E 161st Street, Bronx, NY 10451).

Taino Foods, Inc. is not named in the Region's Consolidated Complaint against McDonald's USA, LLC and several other McDonald's franchisees. However, in light of the Region's Consolidated Complaint, we respectfully request that this charge be processed as expeditiously as possible.

Please file this charge and have the Board agent assigned to this case contact me regarding further processing of the charge. Thank you.

Very truly yours,


Angelica M. Cesario

AMC:amc



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 2
26 Federal Plz Ste 3614
New York, NY 10278-3699

Agency Website: www.nlr.gov
Telephone: (212)264-0300
Fax: (212)264-2450



Download
NLRB
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April 21, 2015

TAINO FOODS INC
TAINO FOODS INC
ATTN: (b) (6), (b) (7)(C)
65 161 ST STREET
BRONX, NY 10451

Re: Taino Foods, Inc. d/b/a McDonald's located
at 51-67 E 161st St, Bronx, NY 10451
Case No. 02-CA-150420

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney ZACHARY E. HERLANDS whose telephone number is (212)264-5585. If this Board agent is not available, you may contact Deputy Regional Attorney GEOFFREY DUNHAM whose telephone number is (212)264-0336.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly. **Due to the nature of**

the allegations in the enclosed unfair labor practice charge, we have identified this case as one in which injunctive relief pursuant to Section 10(j) of the Act may be appropriate.

Therefore, in addition to investigating the merits of the unfair labor practice allegations, the Board agent will also inquire into those factors relevant to making a determination as to whether or not 10(j) injunctive relief is appropriate in this case. Accordingly, please include your position on the appropriateness of Section 10(j) relief when you submit your evidence relevant to the investigation.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

Procedures: We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Taino Foods, Inc. d/b/a McDonald's located - 3 -
at 51-67 E 161st St, Bronx, NY 10451
Case 02-CA-150420

Very truly yours,

A handwritten signature in black ink, reading "Karen P. Fernbach". The signature is written in a cursive style with a large, stylized "K" and "F".

KAREN P. FERNBACH
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

cc:

MCDONALDS USA LLC
ATTN: GLORIA SANTONA,
EXECUTIVE VP GENERAL COUNSEL
SECRETARY
ONE MCDONALDS PLAZA
OAK BROOK, IL 60523

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

Taino Foods, Inc. d/b/a McDonald's located at 51-67 E 161st St, Bronx, NY 10451

CASE NUMBER

02-CA-150420

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)**2. TYPE OF ENTITY**☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)**3. IF A CORPORATION or LLC****A. STATE OF INCORPORATION OR FORMATION****B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES****4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS****5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR****6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).****7. A. PRINCIPAL LOCATION:****B. BRANCH LOCATIONS:****8. NUMBER OF PEOPLE PRESENTLY EMPLOYED**

A. Total:

B. At the address involved in this matter:

9. DURING THE MOST RECENT (Check appropriate box): ☐ CALENDAR YR ☐ 12 MONTHS or ☐ FISCAL YR (FY dates)A. Did you **provide services** valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$**YES NO**B. If you answered no to 9A, did you **provide services** valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.
\$C. If you answered no to 9A and 9B, did you **provide services** valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$D. Did you **sell goods** valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$E. If you answered no to 9D, did you **sell goods** valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.
\$F. Did you **purchase and receive goods** valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$G. Did you **purchase and receive goods** valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$H. **Gross Revenues** from all sales or performance of services (Check the largest amount)
☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.I. **Did you begin operations within the last 12 months?** If yes, specify date: _____**10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?**☐ YES ☐ NO (If yes, name and address of association or group).**11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS**

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

**TAINO FOODS, INC. D/B/A MCDONALD'S
LOCATED AT 51-67 E 161ST ST, BRONX, NY
10451**

Charged Party

and

FAST FOOD WORKERS COMMITTEE

Charging Party

Case No. 02-CA-150420

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on , I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

TAINO FOODS INC
TAINO FOODS INC
ATTN: **(b) (6), (b) (7)(C)**, OWNER
65 161 ST STREET
BRONX, NY 10451

MCDONALDS USA LLC
ATTN: GLORIA SANTONA, EXECUTIVE
VP GENERAL COUNSEL SECRETARY
ONE MCDONALDS PLAZA
OAK BROOK, IL 60523

04/21/15

Date

Teresa Proctor, Designated Agent of
NLRB

Name

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 2
26 Federal Plz Ste 3614
New York, NY 10278-3699

Agency Website: www.nlr.gov
Telephone: (212)264-0300
Fax: (212)264-2450



Download
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April 21, 2015

FAST FOOD WORKERS COMMITTEE

(b) (6), (b) (7)(C)

Re: TAINO FOODS, INC. D/B/A
MCDONALD'S LOCATED AT 51-67 E
161ST ST, BRONX, NY 10451
Case No. 02-CA-150420

The charge that you filed in this case on April 17, 2015 has been docketed as case number 02-CA-150420. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney ZACHARY E. HERLANDS whose telephone number is (212)264-5585. If this Board agent is not available, you may contact Deputy Regional Attorney GEOFFREY DUNHAM whose telephone number is (212)264-0336.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or at the Regional office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you

Taino Foods, Inc. d/b/a McDonald's located - 2 -
at 51-67 E 161st St, Bronx, NY 10451
Case 02-CA-150420

fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Procedures: We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our website www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website www.nlr.gov or from the Regional Office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, reading "Karen P. Fernbach". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

KAREN P. FERNBACH
Regional Director

cc:

LEVY RATNER, P.C.
ATTN: ANGELICA M CESARIO, ESQ.
80 EIGHTH AVENUE FL. 8
NEW YORK, NY 10011-7175

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

**TAINO FOODS, INC. D/B/A MCDONALD'S
LOCATED AT 51-67 E 161ST ST, BRONX, NY
10451**

Charged Party

and

FAST FOOD WORKERS COMMITTEE

Charging Party

Case No. 02-CA-150420

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on , I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

TAINO FOODS INC
TAINO FOODS INC
ATTN: (b) (6), (b) (7)(C)
65 161 ST STREET
BRONX, NY 10451

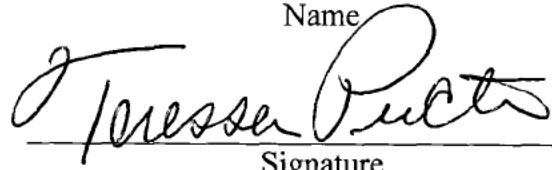
MCDONALDS USA LLC
ATTN: GLORIA SANTONA, EXECUTIVE
VP GENERAL COUNSEL SECRETARY
ONE MCDONALDS PLAZA
OAK BROOK, IL 60523

04/21/15

Date

Teresa Proctor, Designated Agent of
NLRB

Name



Signature



United States Government
NATIONAL LABOR RELATIONS BOARD
Region 02
26 Federal Plaza
New York, NY 10278

Telephone 212-264-5585
Facsimile 212-264-2450

May 5, 2015

Re: *Taino Foods, Inc. d/b/a McDonald's*
Located at 51-67 E. 161st Street, Bronx, NY
10451 & McDonald's Plaza, Oak Brook, IL
60523 as Joint or Single Employer
02-CA-150420

Doreen Davis, Esq.
Jones Day
222 East 41st Street
New York, NY 10017-6727
ddavis@jonesday.com

Dear Ms. Davis:

I have been assigned to investigate Case No. 02-CA-150420. In order to achieve full cooperation in this investigation, please provide anyone who has knowledge regarding the allegation in the above-captioned charge for the purpose of giving affidavits. Please be advised that the failure to provide the Board-prepared affidavits is considered lack of full cooperation with this Agency.

In addition, please provide the Employer's position and response with supporting documents to the allegation contained in the above-captioned charge:

On a date within the last six months, the above-named Joint Employer has unlawfully interfered with, restrained, and coerced employees in the exercise of their rights under the Act by engaging in the following conduct: 1) In or about (b) (6), (b) (7)(C) 2014, unlawfully reducing the work hours of employee (b) (6), (b) (7)(C); 2) Unlawfully disciplining employee (b) (6), (b) (7)(C) in or about (b) (6), (b) (7)(C) 2015 and on about (b) (6), (b) (7)(C) 2015; and, 3) On or about (b) (6), (b) (7)(C) 2015, unlawfully terminating the employment of (b) (6), (b) (7)(C) all in retaliation for (b) (6), (b) (7)(C) participation in protected concerted activity.

Additionally, please provide the Employer's response to the following:

1. Were employee (b) (6), (b) (7)(C) hours reduced in (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) 2014? If so, why? Please provide supporting documents.
2. Was (b) (6), (b) (7)(C) disciplined at any time from (b) (6), (b) (7)(C) 2015? If so, why was (b) (6), (b) (7)(C) disciplined? Please provide supporting documents.

3. What rule did (b) (6), (b) (7)(C) violate to warrant discipline? Have others been disciplined for the same or similar reasons? Please provide supporting documents.
4. Was (b) (6), (b) (7)(C) terminated? If so, when and why? How was (b) (6), (b) (7)(C) notified of this termination; who made the decision to terminate (b) (6), (b) (7)(C); and, for what reason was (b) (6), (b) (7)(C) terminated? Please provide supporting documents.
5. What rule did (b) (6), (b) (7)(C) violate to warrant termination? Please provide supporting documents. Was an investigation performed? Please provide all notes, letters, emails, investigation documents, meeting minutes, and all other documents used in the investigation.
6. Have other employees been terminated for the same or similar reasons? Please provide documents showing these incidents (names, dates, reason for termination, termination notice/document . . .etc).
7. Has (b) (6), (b) (7)(C) been disciplined in the past? If so, when, for what, and what was the discipline? Please provide supporting documents.
8. Does the Employer have knowledge of (b) (6), (b) (7)(C) involvement in or with a nationwide fast-food workers' movement? Does the Employer have knowledge of (b) (6), (b) (7)(C) involvement in various rallies or strike that occurred on or about June, September, and December 3, 2014? If so, please describe its knowledge in detail and provide supporting documents (if in existence).

In addition to the above-requested documents, please provide the following documents:

1. (b) (6), (b) (7)(C) personnel file, including but not limited to, all discipline and complaints.
2. (b) (6), (b) (7)(C) payroll records from September 1, 2014, through (b) (6), (b) (7)(C) last day of employment.
3. All documents relating to (b) (6), (b) (7)(C) termination (discipline, grievance, letters, emails, meeting minutes . . .etc).
4. Termination documents for all employees since January 1, 2013.
5. Copies of the franchise agreements for the at-issue McDonald's location and any other agreements between McDonald's USA, LLC, and the franchise at this location which were in effect from August 1, 2012 to the present.
6. Copies of any and all books, memoranda, contracts or other documents, created or in effect during the period of August 1, 2012 to the present, describing the ability or authority of McDonald's USA, LLC, to take any of the following actions with respect to the at-issue franchise:

- a. hire; fire; impose or effectively recommend discipline, discharge, screen new hires; set wages, benefits, and hours of work; make assignments or transfer of personnel, and supervise the work of employees.

7. All other documents that would be helpful.

The Employer's full written position statement, including the above-requested documents, should be received in this office no later than **May 15, 2015**. Subsequent to that date, the Region could be forced to make a determination of the merit of this case, or the lack thereof, based on the evidence then in the case file. Thank you for your cooperation.

Sincerely,

/s/Zachary Herlands/s/
Zachary Herlands, Field Attorney

From: [Angelica M. Cesario](#)
To: [Herlands, Zachary](#)
Subject: Re: 02-CA-150420 McDonald's - Taino Foods
Date: Wednesday, May 13, 2015 4:35:20 PM

Hi Zachary,

Thank you for getting in touch. I received your message and I apologize for not responding sooner. (b) (6), (b) (7)(C) phone was disconnected and since (b) (6), (b) (7)(C) is no longer at the store, we have been unable to contact (b) (6), (b) (7)(C).

We will withdraw the charge and re-file again later if we are able to reach (b) (6), (b) (7)(C) again within the 10(b) period.

Sorry for any inconvenience this has caused you.

Thanks,
Angelica

Sent from my iPhone

On May 13, 2015, at 4:33 PM, Herlands, Zachary <Zachary.Herlands@nlrb.gov> wrote:

Hi Angelica,

I called yesterday to discuss this case. Have you (or the Union) been able to contact the discriminatee? It's been almost 3 weeks since the charge was filed. If we cannot locate (b) (6), (b) (7)(C) or (b) (6), (b) (7)(C) will not participate, I would recommend withdrawing the charge and re-filing when (b) (6), (b) (7)(C) is ready to present (b) (6), (b) (7)(C) evidence. We obviously cannot move forward with the investigation without the discriminatee's evidence. Please advise. Thanks.

-Zach

From: Angelica M. Cesario [<mailto:acesario@levyratner.com>]
Sent: Thursday, May 07, 2015 9:45 AM
To: Herlands, Zachary
Subject: RE: 02-CA-150420 McDonald's - Taino Foods

Hi Zach, yes I'm sorry. (b) (6), (b) (7)(C) and I have been trying to reach (b) (6), (b) (7)(C) and haven't had any luck for some reason. Initially, (b) (6), (b) (7)(C) was very responsive. I am still continuing to try to reach (b) (6), (b) (7)(C) and am hoping that we can present (b) (6), (b) (7)(C) very soon.

--

Angelica M. Cesario | [View Bio](#)
acesario@levyratner.com

LEVY RATNER, P.C.

80 Eighth Avenue, 8th Floor
New York, NY 10011
(212) 627-8100 | (212) 627-8182 Fax
www.levyratner.com

From: Herlands, Zachary [<mailto:Zachary.Herlands@nrlb.gov>]
Sent: Thursday, May 07, 2015 9:02 AM
To: Angelica M. Cesario
Subject: RE: 02-CA-150420 McDonald's - Taino Foods

Hi Angelica,

I haven't heard back from you regarding (b) (6), (b) (7)(C). As you know, it is the obligation of the Charging Party to present evidence in support of the allegation in the charge. Please let me know as soon as possible when (b) (6), (b) (7)(C) is available to give an affidavit. Thanks.

-Zach

From: Herlands, Zachary
Sent: Tuesday, May 05, 2015 8:50 AM
To: 'Angelica M. Cesario'
Subject: RE: 02-CA-150420 McDonald's - Taino Foods

Any word from (b) (6), (b) (7)(C)? I am available any day this week. Thank you.

From: Herlands, Zachary
Sent: Thursday, April 30, 2015 3:06 PM
To: 'Angelica M. Cesario'
Subject: 02-CA-150420 McDonald's - Taino Foods

Hi Angelica,

I need to set up affidavits with the (b) (6), (b) (7)(C). Have you been in contact with (b) (6), (b) (7)(C)? I am available all next week. Thanks.

-Zach

Zachary Herlands
Field Attorney
NLRB, Region 2
26 Federal Plaza, Room 3614
New York, NY 10278
T: (212) 264-5585
F: (212) 264-2450

From: [Lewis, Nicholas H.](#)
To: [Herlands, Zachary](#); [Dunham, Geoffrey](#)
Cc: [Strozier, Sara](#); [Spratley, Wanda](#); [Maisonet, Carmen D.](#)
Subject: RE: MEMO of WITHDRAWAL: 02-CA-150420 - Taino Foods, Inc./McDonald's
Date: Monday, May 18, 2015 11:26:27 AM

Withdrawal of 02-CA-150420 approved.

From: Herlands, Zachary
Sent: Monday, May 18, 2015 11:23 AM
To: Dunham, Geoffrey; Lewis, Nicholas H.
Cc: Strozier, Sara
Subject: FW: MEMO of WITHDRAWAL: 02-CA-150420 - Taino Foods, Inc./McDonald's

Geoff/Nick,

I inadvertently cited the wrong case number below. Case number 02-CA-150420 should be withdrawn. 02-CA-151536 is a different, unrelated charge I'm investigating (involving Mt. Sinai). Sorry for the confusion.

-Zach

From: Dunham, Geoffrey
Sent: Thursday, May 14, 2015 3:55 PM
To: Lewis, Nicholas H.
Cc: Herlands, Zachary; Strozier, Sara
Subject: FW: MEMO of WITHDRAWAL: 02-CA-151536 - Taino Foods, Inc./McDonald's

RECOMMEND APPROVAL OF WITHDRAWAL REQUEST (b) (5)

[REDACTED]

From: Herlands, Zachary
Sent: Wednesday, May 13, 2015 4:55 PM
To: Dunham, Geoffrey
Cc: Lewis, Nicholas H.
Subject: 02-CA-151536 - Taino Foods, Inc./McDonald's

Hi Geoff and Nick,

The CP requested withdrawal of the above case. The charge alleges that "on a date within the last six months, the above-named Joint Employer has unlawfully interfered with, restrained, and coerced employees in the exercise of their rights under the Act by engaging in the following conduct: 1) In or

about (b) (6), (b) (7)(C) 2014, unlawfully reducing the work hours of employee (b) (6), (b) (7)(C); 2) Unlawfully disciplining employee (b) (6), (b) (7)(C) in or about (b) (6), (b) (7)(C) 2015 and on about (b) (6), (b) (7)(C) 2015; and, 3) On or about (b) (6), (b) (7)(C) 2015, unlawfully terminating the employment of (b) (6), (b) (7)(C), all in retaliation for (b) (6), (b) (7)(C) participation in protected concerted activity.” Subsequent to the filing of the charge, discriminatee (b) (6), (b) (7)(C)(b) (5)

As such, the CP requested withdrawal. The CP was apprised of 10(b).

Thanks,

-Zach

Zachary Herlands
Field Attorney
NLRB, Region 2
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New York, NY 10278
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UNITED STATES GOVERNMENT
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May 18, 2015

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Robert M. Pettigrew, Esq.
LeClair Ryan
One Riverfront Plaza
1037 Raymond Boulevard
Newark, NJ 07102

Re: Taino Foods, Inc. d/b/a McDonald's located
at 51-67 E 161st St, Bronx, NY 10451
Case No. 02-CA-150420

Dear Ms. Davis, Mr. Ferrell, Mr. Madsen, Mr. Pettigrew:

This is to advise you that I have approved the withdrawal of the charge in the above matter.

Very truly yours,

Karen P. Fernbach

Karen P. Fernbach
Regional Director

Taino Foods, Inc. d/b/a McDonald's located - 2 -
at 51-67 E 161st St, Bronx, NY 10451
Case No. 02-CA-150420

May 18, 2015

cc: Taino Foods Inc.
Attn: (b) (6), (b) (7)(C)
65 East 161st Street
Bronx, NY 10451

McDonald's USA LLC
Attn: Gloria Santona, Executive VP
General Counsel Secretary
One McDonald's Plaza
Oak Brook, IL 60523

Angelica M Cesario, Esq.
Levy Ratner, P.C.
80 Eighth Avenue, 8th Floor
New York, NY 10011-7175

Fast Food Workers Committee
24 Nevins Street
Brooklyn, NY 11217-1010